

City of Brookings

City Council Meeting MINUTES

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Monday, September 8, 2014

Call to Order

Mayor Hedenskog called the meeting to order at 7:00 PM.

Roll Call

Council present: Mayor Ron Hedenskog, Councilors Jake Pieper, Kelly McClain, Brent Hodges and Bill Hamilton; a quorum present.

Staff present: City Manager Gary Milliman, Public Works & Development Director Loree Pryce, Planning Manager Donna Colby-Hanks, City Attorney Martha Rice and City Recorder Joyce Heffington.

Others Present: Curry Coastal Pilot Report Jane Stebbins and approximately 28 others.

Ceremonies/Appointments/Announcements

Mayor Hedenskog proclaimed the week of September 7, Supreme Emblem Club Week.

Mayor Hedenskog announced the September Yard of the Month Award as follows:

- Residential - Brookings Presbyterian Church, 540 Pacific Avenue
- Commercial - Tim Hartzell and Kate Davies, 427 Hillside Avenue

Staff Report

Connect Oregon V Grant Agreement for Runway Safety Project.

City Manager Milliman presented the staff report and introduced Susan Daugherty, Border Coast Regional Airport Authority Program Administrator, who thanked Council for its support. Daugherty said the grant award represents a huge milestone toward recognizing the airport as serving people on both sides of the border.

Councilor Pieper moved, a second followed and Council voted unanimously to authorize City Manager to execute the Grant Agreement for *ConnectOregon V* funding with the Oregon Department of Transportation for the Runway Safety Area Project at Del Norte County Regional Airport.

Public Hearings/Final Orders/Ordinances

Quasi-judicial public hearing in the matter of File ANX-1-14, a request to annex approximately 13.33 acres located adjacent on the North Bank Chetco River Road.

Mayor Hedenskog opened the public hearing at 7:16 PM.

Hearing no exparte, declarations of conflict or personal interest, or objections as to jurisdiction, City Attorney Rice reviewed the guidelines and Planning Manager Colby Hanks entered Exhibit I into the record and introduced CSA Principal, Jay Harland.

Harland provided a summary of key points in the staff report and said it was difficult to relate some of the material to specific criteria in some of the recently submitted testimony. In general, he said the area is also zoned industrial/commercial and is part of the Urban Growth Boundary (UGB); urbanization is already allowed under Goal 14.

Mayor Hedenskog asked about zoning and the 100 year shoreline boundary. Harland said the request is to rezone both properties to residential and said it was not out of the ordinary for FEMA to provide a conditional letter map revision (CLOMAR) and then give final approval after the 100 year flood line is defined. The applicant, Harland said, is not asking for a variance to a setback. That, he said, would apply to development of the property, which is not part of this application. Harland said the riparian line does not move because it comes off the mean, high water line.

Councilor McClain asked about the 100 year flood line and Harland said that all of the area within the 100 year floodplain has certain protections. McClain then said it would require a substantial amount of fill to get the southern lot above the 100 year floodplain and asked if the City was okay with that and Harland said FEMA did the approval and the City says if you have a CLOMR, then the City will apply the regulations as defined on the revised map.

Councilor Hodges asked about the difference between the 100 and 500 year floodplain and Harland said it could be two feet vertically or 40 feet, depending on the property.

Councilor Hamilton asked if the property would be elevated to the 500 year flood line and Harland said the applicant had offered that as a goal, but would rather not be regulation-bound to do it. Harland said in Oregon he thought building was allowed one foot above the 100 year elevation. Hamilton said he would prefer to go 4 or 5 feet above the 100 year elevation.

Applicant: Ron Tribble provided a brief history of the project. In particular, he said: the property was originally used for aggregate mining and later as a storage yard for leftover mining equipment and other items; the area is in the Urban Growth Area and was meant to be developed; running a sewer line out to the property will relieve the need for septic systems; the goal was to build a couple of feet beyond the 100 year floodplain; the property had been "decimated" by the previous owner; the existing riparian areas are nothing but berry vines and invasive species; they are working with the Oregon Department of Fish and Wildlife (ODFW) to repair the riparian area and improve fish passage with a culvert; based on what they've heard, development is needed in Brookings and this project will create jobs, increase the tax base and restore the riparian area; they already have engineered fill on the property that was approved by the County; and the rest of the work would be accomplished when their plans are finalized.

Councilor Hamilton asked if there were any concerns about the creek eroding the property and Tribble said the culvert reduces the buildable area and will cost them money to work with ODFW on enhancements but they are fine with that.

Dan O'Connor, attorney to Mahar/Tribble, said the County had already approved fill in the floodplain. The CLOMR was approved in 2009 and the County approved the fill and grade permit. The CLOMR includes hydraulics and FEMA review, which includes endangered species compliance and the migration of the river. The fill issue, he said, is not relevant to this application. He said the project will be less impactful to the property than allowed under the existing zoning and there is no proposal to reduce the riparian set back or seek a variance. Environmentally, he said, this project will be an improvement.

Mayor Hedenskog said the 100 year flood plain is established and Harland concurred.

Councilor McClain asked if there was a proposal for the City to maintain the road and Harland said not unless the County were to bring it up to City standards.

Proponents:

Marianne Padilla, 898 Old County Road, said Tribble wants what's best for the community and is a man of integrity and Mahar has an impeccable reputation. She said the area needs more residences of the type proposed for this project and asked that Council grant the application

Opponents:

Donald Berger, 98438 North Bank Chetco River Road, said he was concerned that filling the floodplain would create a higher water elevation.

Yvonne Maitland, 15676 Oceanview Drive, questioned lumping comp plan and zone changes into the same application, the density of development and the shore land boundary change. In particular she said the area should remain undeveloped. She submitted a written transcript of her testimony, entered into the record as Exhibit J. She also said the County had denied the application.

Catherine Wiley, 96370 Dooley Creek Road, requested that Council deny the application based on Goal 2. In particular she said the applicant had failed to provide proof to support an application for annexation; the riparian set back needed to be conserved; the Chetco River is the coronary artery of the coast; the conditional letter from FEMA is not the last word; the application contained incomplete, misleading and out of date information, and opening up and re-routing Ferry Creek will endanger the road and flood Snug Harbor. She requested an extension of the hearing and submitted written testimony which was entered into the record as Exhibit K.

Mark Sherwood, 320 Railroad, in particular said the two tax lots are not appropriate for human habitation; development of the area would be in opposition to several Comprehensive Plan goals; development of the area would need special attention; Tax Lot 2000 contains one of the last estuaries of its kind; development will threaten salmon; the area needs preserving. He asked that each piece of the application be dealt with individually and submitted a written transcript of his testimony which was entered into the record as Exhibit L.

Tim Palmer, 608 Oregon Street, Port Orford, representing the Kalmiopsis Society, said he did not believe the proposal met the criteria in statewide goals 7 and 17. He asked why the developer applied to the City after being denied by the County and said flooding in the floodplain is occurring more frequently than every 100 years and floods greater than 100 year floods will occur. He recommended that Council deny the application to annex and designate the property as floodplain and open space and sell the property for restoration and habitat.

Carl Page, 12580 Hwy 101, Smith River, California, particularly said fish need to recover; we need to conserve areas such as flood plains; we need a better vision for conserving riparian areas; it was "biblically unwise" to build in the flood plain; the risk to property and life is too high, and, this is not smart. His written testimony was entered into the record as Exhibit M.

Stan Easley, 9979 North Bank Chetco River Road, particularly said Mahar/Tribble to the permit to fill because they agreed to open up Ferry Creek. He questioned the

need for the project, and said the property should be brought back to its natural state. He also requested an extension of the hearing.

Councilor McClain asked Sherwood why he felt leaving the area zoned industrial and commercial would be better than zoning it residential and Sherwood said the Council already denied a change to the riparian buffer in 2009. McClain then said the fish only use the area of concern during high flood events and Sherwood said the number of high flood events will increase over time.

Councilor Pieper asked counsel if the comingling of zoning and comprehensive plan goals was unusual and Harland said it was not.

Rebuttal: Tribble said, according to studies of the area, the fill won't cause a rise. He said they would not be doing any work in the riparian area and that fish wouldn't even be in the area except during a high water event. He said the property is in the Urban Growth Boundary (UGB) and they were not trying to go around the County and the process had come down to sewer infrastructure. He said they would be leaving Snug Harbor alone and would try to maintain a lot of green space. He said they would be working in areas that had already been highly disturbed.

Harland asked Council if they wanted to extend the hearing to receive additional testimony, or close it.

Mayor Hedenskog asked Tribble what he would like to do and Tribble said it was disconcerting to receive so much last minute testimony and O'Connor suggested that Council could close the public hearing and deliberate at the next meeting. Tribble said that would be fine with him.

Councilor Pieper said when they had waded through the new testimony they would find that it wasn't pertinent to the application and he was not opposed to O'Connor's suggestion.

Councilor Hamilton said he was ready to move on.

The hearing was closed at 9:49 PM.

Councilor Hodges said the opposing group tended to show up at the eleventh hour and shut down the process. He said there was no bigger proponent of the Chetco River but he didn't understand the reasoning behind wanting to keep the property zoned commercial and industrial. He said he had watched the scope of the project transform and there has been a lot of time and money spent on the process. He said he thought the negative comments were biased.

Mayor Hedenskog said he had watched that area for years and a lot of the evening's testimony was based on short term history. He said the applicants meet the criteria.

Councilor Pieper said that, while he appreciated the applicant's goal regarding the 500 year floodplain, he would only want to hold them to the 100 year flood plain requirement.

Councilor McClain said the applicant had gone above and beyond what was required. He agreed that floods could reach higher than the 100 year floodplain and said he would prefer to leave the 500 year floodplain limit.

Councilor Hamilton said he felt confident that the project will be a benefit to the community and felt the 500 year floodplain would be the wiser choice or at least go a little beyond what FEMA recommends.

Councilor Pieper moved, a second followed and Council voted unanimously to approve the application for ANX-1-14 based on the findings and conclusions, staff report analysis, and oral and written evidence presented at the hearing, approve the final order with the deletion of condition 3 F, regarding the 500 year flood plain, and proceed to the adopting ordinance.

Ordinance 14-O-738, amending the City of Brookings limits and zoning map.

Colby-Hanks presented the staff report.

Councilor Pieper moved, a second followed and Council voted unanimously to do a first reading of Ordinance 14-O-738.

Mayor Hedenskog read the title.

Councilor Pieper moved, a second followed and Council voted unanimously to do a second reading of Ordinance 14-O-738.

Mayor Hedenskog read the title.

Councilor Pieper moved, a second followed and Council voted unanimously to adopt Ordinance 14-O-738.

Staff Reports

Councilor Hodges moved, a second followed and Council voted unanimously to move item #H2 [regarding legislative services for a Curry Health Network Emergency Department] on the agenda to Item #H1.

Request to place Public Radio Broadcast Antenna on the City's Public Safety Communications Tower.

City Manager Milliman provided the staff report.

Candice Michel said the radio station would be prohibited from taking a political stand under their license and pointed out the station would also provide emergency broadcasting.

Connie Hunter, Brookings, said the station will be a benefit to the community. It will give young people a voice, bring people together, build family and community and will make it easier for non-profits to raise money.

Councilor Pieper said he was excited about this and was glad to help them out.

Councilor McClain said he was excited that someone is going to do this and Councilor Hamilton said he applauded great minds.

Councilor Pieper moved, a second followed and Council voted unanimously to authorize City Manager to prepare and execute an agreement with Curry Coast Community Radio to install and maintain a radio broadcast antenna on the City public safety communications tower, with the term of the agreement to be three years and with the applicant to pay all costs associated with installing and maintaining the antenna, including electricity costs.

Legislative Services to secure legislation for a Curry Health Network (CHN) Emergency Department at the Brookings Clinic.

City Manager Milliman presented the staff report.

Andrew Bair, CHN CEO, said he was excited about the potential partnership. An ER is very much needed in Brookings, he said, and this has the potential to shorten what could have been a very lengthy process. There is a potential, he said, to have an answer before the end of the year; the next step will be to find a way to fund it.

Gary Anderson, CHN Board Chair, said he'd long felt having an ER in Brookings was a good idea.

Councilor Pieper said he was glad this was being moved forward aggressively and Councilor McClain said it was worth the risk. Councilor Hamilton said he was 100% for it and Councilor Hodges said moving ahead aggressively was the best way to go.

Councilor McClain moved, a second followed and Council voted unanimously to confirm and authorize the engagement letter with the law firm of Davis Wright Tremaine for services in connection with securing rules and/or legislation to secure an Emergency Department for the Curry Health Network (CHN) Brookings Clinic, and request that CHN share 50 per cent of the cost of said services.

Tourism Promotion Advisory Committee (TPAC) recommendation to contract with Radio Medford for radio advertising to promote off-season tourism events.

City Manager Milliman gave the staff report.

Councilor McClain asked how much administrative effort would be involved and Milliman said it would end up on his plate.

Councilor Pieper said he was glad they were trying to hit off-season events hard and Councilor Hamilton said he recommended having TPAC seek help from people with expertise in this area. Councilor Hodges said he really thought the committee had done what Council wanted them to do.

Councilor McClain said this would violate his first rule, which is that the project needs to require a minimum of staff time. He said he would prefer to give the event proposers the money so they can promote the event. Councilor Pieper said he can't see them using their funding for this and McClain said the money could be split between the three off-season events.

Councilor Hodges moved, a second followed and Council voted unanimously to approve the Tourism Promotion Advisory Committee's recommendation to contract with Radio Medford for radio advertising to promote upcoming off-season tourism events.

Consent Calendar

1. Approve Council minutes for August 25, 2014.
2. Accept Tourism Promotion Advisory minutes for May 15 & July 17, 2014.
3. Accept August 2014 Vouchers in the amount of \$322,007.76.

Mayor Hedenskog moved, a second followed and Council voted unanimously to approve the Consent Calendar as written.

Adjournment

Mayor Hedenskog moved, a second followed and Council voted unanimously by voice vote to adjourn at 10:39 PM.


A meeting of the Urban Renewal Agency immediately followed.

Respectfully submitted:



Ron Hedenskog, Mayor

ATTESTED:
this 24th day of September 2014:



Joyce Heffington, City Recorder